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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

# IN RE GOOGLE PLAY STORE ANTITRUST LITIGATION

Case No. 3:21-md-02981-JD

**THIS DOCUMENT RELATES TO:**

*Epic Games Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD

## **JOINT STATEMENT RE: CASE SCHEDULE AND TRIAL STRUCTURE**

*In re Google Play Consumer Antitrust Litigation*, Case No. 3:20-cv-05761-JD

Judge: Hon. James Donato

*In re Google Play Developer Antitrust Litigation*, Case No. 3:20-cv-05792-JD

*State of Utah et al. v. Google LLC et al.*, Case No. 3:21-cv-05227-JD

Pursuant to this Court’s instruction at the conclusion of the December 16, 2021 status conference, the parties in the above-captioned MDL action (“the Parties”), by and through their undersigned counsel, submit this Joint Statement Regarding Case Schedule and Trial Structure.

## **I. CASE SCHEDULE**

Based on the guidance provided by the Court at the last status conference, the Parties have met and conferred regarding a modified schedule for this MDL. The Parties jointly propose the case schedule attached as Exhibit A and set forth in the proposed order accompanying this filing based on a proposed trial date of January 30, 2023. As advised by the Court, this proposed schedule separates the *Daubert* and class certification motion hearings, separates the *Daubert* and dispositive motion hearings, sets deadlines for joint filings in advance of the concurrent expert proceedings and sets the hearing for dispositive motions two months before the final pretrial conference.

1        **II. TRIAL STRUCTURE**

2            The Parties have met and conferred regarding the structure of any trials. As the  
 3 Court has previously noted, 7/22/21 Tr. 7:22-8:7, the Complaints assert substantially similar  
 4 theories of antitrust liability. Given the Court's guidance that the "optimal result" would be to  
 5 have "one jury decide[] in one sitting the core antitrust issues," *see* 7/22/21 Tr. 29:03-24, the  
 6 Parties are planning to proceed accordingly with a combined jury trial on the core antitrust liability  
 7 issues common to the four cases.

8            With respect to the issue of damages, the Consumer Plaintiffs, Developer Plaintiffs,  
 9 State Plaintiffs, and Google Defendants respectfully suggest that the Court defer ruling further on  
 10 trial structure until after the close of expert discovery on August 19, 2022.<sup>1</sup> Whether there should  
 11 be a separate damages phase, and the structure of that phase, will be informed by factual evidence  
 12 still to be obtained in discovery, expert reports and depositions, motions practice, and other  
 13 developments that may occur over the next several months.

14           Likewise, with respect to Google's counterclaims against Epic, Epic and Google  
 15 respectfully suggest that the Court defer ruling further on trial structure. Whether evidence and  
 16 arguments about Google's counterclaims against Epic should be part of a liability trial in which all  
 17 Plaintiffs are present, or should instead be addressed during a separate phase or trial, will be  
 18 informed by factual evidence still to be obtained in discovery, expert reports and depositions,  
 19 motions practice, and other developments that may occur over the next several months.

20           The Parties jointly propose that they meet and confer on these issues promptly  
 21 following the close of expert discovery (which is set for August 19, 2022 under the schedule  
 22 jointly proposed by the Parties), and then meet with the Court to further discuss trial structure and  
 23 the length of any trials<sup>2</sup> with the benefit of a more developed record.

24  
 25           <sup>1</sup> Plaintiff Epic has not asserted any claim for damages against Google and has no objection to the  
 other Parties' suggestion that the Court defer ruling on the trial structure as it relates to the other  
 Plaintiffs' damages claims.

26           <sup>2</sup> At the December 16, 2021 status conference, the Court indicated that its preliminary view was  
 27 that the core antitrust liability issues could be tried over a three-week period with approximately  
 20-25 hours allotted to Plaintiffs and 20-25 hours allotted to Google. At this stage, Plaintiffs  
 28 anticipate needing more than three weeks to try the core antitrust liability issues due to the

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29 complexity and scope of the issues and the anticipated number of fact and expert witnesses.  
30 Accordingly, Plaintiffs respectfully request that the Court revisit the appropriate length of trial at a  
31 later stage of the case.

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1 **E-FILING ATTESTATION**

2 I, Kuruvilla Olasa, am the ECF User whose ID and password are being used to file  
3 this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the  
4 signatories identified above has concurred in this filing.

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6 */s/ Kuruvilla Olasa*  
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## Exhibit A

ACTIVITY	DATE
<b>Status Conferences</b>	
Joint status conference	March 17, 2022, at 11 a.m. (by remote access)
Joint status conference	June 16, 2022, at 11 a.m. (by remote access)
<b>Fact Discovery Cut-off</b>	April 18, 2022
<b>Class Certification</b>	
Plaintiffs' Class Certification Motion	March 3, 2022
Plaintiffs' Class Certification expert report	March 3, 2022
Google's Class Certification Opposition	April 5, 2022
Google's Class Certification Expert Report	April 5, 2022
Google's <i>Daubert</i> Motion(s) re Class Certification Report	April 5, 2022
Plaintiffs' Class Certification Reply and <i>Daubert</i> Motion	April 29, 2022
Plaintiffs' Class Certification Reply Expert Report	April 29, 2022
Plaintiffs' Opposition to <i>Daubert</i> Motion	April 29, 2022
Google's <i>Daubert</i> Reply	May 6, 2022
Google's Motion re any Class Certification Reply Expert Report	May 6, 2022
Plaintiffs' Response to Google's Motion re Reply Expert Report	May 13, 2022
Concurrent Expert Proceeding Joint Submission	May 13, 2022
Concurrent Expert Proceedings/ <i>Daubert</i> Hearing	May 19, 2022
Class Certification Hearing	May 26, 2022
<b>Merits Experts</b>	
Plaintiffs' Merits Expert Reports	May 27, 2022

1	ACTIVITY	DATE
2	Google's Merits Expert Reports	July 1, 2022
3	Plaintiffs' Merits Replies	July 29, 2022
4	Expert Discovery Cut-Off	August 19, 2022
5	<b>Dispositive/<i>Daubert</i> Motions</b>	
6	Dispositive/ <i>Daubert</i> Motions	August 26, 2022
7	Dispositive/ <i>Daubert</i> Motion Responses	September 23, 2022
8	Dispositive/ <i>Daubert</i> Motion Replies	October 14, 2022
9	Concurrent Expert Proceeding Joint Statement	October 21, 2022
10	Concurrent Expert Proceeding/ <i>Daubert</i> Hearing	November 4, 2022
11	Dispositive Motion Hearing	November 17, 2022
12	<b>Trial</b>	
13	Serve (but not file) Motions in Limine	November 23, 2022
14	Serve (but not file) opposition to Motions in Limine	December 12, 2022
15	Pretrial Filings Due Date	December 16, 2022
16	Pre-Trial Conference	January 19, 2023
17	Trial Date	January 30, 2023
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